

MINUTES
IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND
PROGRAM

March 27, 2008

COMMISSIONER'S CONFERENCE ROOM
IOWA INSURANCE DIVISION, 330 EAST MAPLE STREET
DES MOINES, IOWA

Stephen Larson, chairing for the absent Susan Voss, called the Iowa UST Board meeting to order at 10:02 A.M. A quorum was present. Roll call was taken with the following Board members present:

Jacqueline Johnson (via telephone)
Nancy Lincoln (via telephone)
Liz Christiansen (for Richard Leopold)
Stephen Larson (for Michael Fitzgerald)
Doug Beech
Jeff Robinson

Also present were:

David Steward, Attorney General's Office
Scott Scheidel, Program Administrator
James Gastineau, Program Administrator's Office
Elaine Douskey, Iowa Department of Natural Resources
Brian Tormey, Iowa Department of Natural Resources

APPROVAL OF PRIOR BOARD MINUTES

The minutes from the February 29, 2008 Board meeting were reviewed. Mr. Beech moved to approve the minutes, Ms. Christiansen seconded the motion, and by a vote of 5-0, the minutes were approved.

CLOSED SESSION

Mr. Larson noted there were no matters dealing with litigation for discussion in closed session pursuant to Iowa Code Chapter 21.

PUBLIC COMMENT

Mr. Larson requested any comments from the public present. There were no public comments made at this time.

BOARD ISSUES

A. Legislative Update

Mr. Scheidel discussed the activities at the State Capitol. He noted the following bills had been introduced previously under House and Senate study bill numbers, and he provided an update to their development:

1) House File 2561 (TIME 21)

Mr. Scheidel noted this bill contained a provision that ordered the Board to defease all bonds by June 30, 2008. The provision that ordered this action had a contingency clause that would strip that portion of the bill if the funding provisions contained in HF 2562 or SF 2389 did not pass. He noted that House File 2561 did pass, but would not be in effect unless one of the funding companion bills referenced also passed; otherwise House File 2561 will die.

2) House File 2562 (TIME 21)

The main intent of this bill was to constitutionally protect monies collected for road use. As previously discussed, a provision in this bill would have directed the Environmental Protection Charge (EPC) collections directly into the UST Fund causing a constitutional issue; that provision had been address since. That provision was changed to allow EPC collections to continue to be deposited into the Road Use Tax fund, and the UST Fund would be paid \$4.25M quarterly from a group of collections consisting mainly of drivers license fees, trailer registration fees and title fees. This bill provides the funding piece to the policy bill – House File 2561.

3) Senate File 2391

This bill would make changes to the renewable fuel infrastructure laws, including the Renewable Fuel Infrastructure Board (RFIB). The change would remove the UST Fund Board's authority to require that applications to the RFIB be forwarded to the UST Fund board for review and recommendation. Mr. Scheidel had registered against the bill on the UST Board's behalf, and the Renewable Fuels Association promised to remove that portion of the bill by amendment. He stated he would continue to look for that amendment to be filed.

Next, Mr. Scheidel explained that he and Susan Voss had met with Senator Gronstal regarding the issue of diverting funds. Mr. Scheidel noted that Senator Gronstal had sought an amount that could be diverted from the UST Fund without affecting cash flows. Mr. Scheidel responded that if the provisions that would require defeasance of bonds were passed, then no diverted monies would be prudent; however in the absence of any action affecting the Boards' current balances, a diversion of \$2-3M would have a minimal impact on the cash flows in the short and probably in the long term. Additionally, Mr. Gronstal inquired about the Boards' ability to exercise its loss portfolio transfer authority in light of a diversion of funds from the UST Fund. Mr. Scheidel

responded that any diverted amount from the UST Fund would have a negative effect on the possibility of entering into a LPT.

B. Request for Information (RFI) Update

Mr. Scheidel noted that the RFI, for parties who might have interest in a loss portfolio transfer of UST Fund remedial claims, was on hold pending the outcome of proposed legislation. The will of the Board was to wait until any TIME 21 legislation was acted on or until it died before issuing a RFI.

C. SIC Model (RBCA) Rule Status

Mr. Scheidel updated the Board with regard to the Administrative Rules Committee (ARC) hearing where the Department of Natural Resources (DNR) had noticed the rule for RBCA change. He explained that he had registered a comment jointly with Petroleum Marketers Management Insurance Company (PMMIC) and Casey's, which represented some of the stakeholders who were on the software investigation committee (SIC). The ARC also heard comment from water well operators, and he said the ARC directed an informal regulatory analysis of the rule implying that interested parties should meet to find a compromise to bring back to the ARC. Therefore stakeholders would meet every Tuesday and Friday until the next hearing to find common ground.

Mr. Scheidel explained that he had a suggestion to remove the burden from the regulated community (tank owners). He recommended a trial period, during which the DNR and the UST Fund would run the RBCA model as adjusted, and classify sites according to the model. However, DNR staff would review reports and select sites which they felt were not properly addressed by the adjusted model, but would have been addressed by the rule that DNR wants to implement. Those sites would be further studied through a separate agreement between the UST Fund Board and the DNR similar to other 28E agreements for special projects and/or innovative technologies.

D. DNR 28E for Attorney Position

Mr. Scheidel presented a 28E agreement to the Board as previously discussed and agreed upon, regarding an attorney position with the DNR that had been previously funded through grants from the US Environmental Protection Agency (USEPA). Because grants were never guaranteed, DNR had sought to make this position permanent by securing back-up funding from the Board for half of that position's salary. He noted that many of the duties of the attorney position were stated within the 28E agreement itself, as well as, the estimated pay scale through year 2012.

Mr. Beech inquired about the pay scale and the perceived jump in rate from \$57,000 in 2009 to \$70,000 in 2010. Mr. Scheidel responded that escalation marked the difference in the State scale between the Attorney I and Attorney II positions. Mr. Scheidel also noted that the 28E copy in the Board packets had been updated and corrected copies were carried in to the meeting for Board members to reflect changes in DNR contact information. Elaine Douskey, Iowa DNR

UST/LUST Supervisor, informed the Board that she had already submitted a proposal for the position to USEPA for grant money to cover the position for the next fiscal year.

Mr. Beech submitted a motion to approve the 28E agreement as carried in, and Mr. Larson seconded the motion. Ms. Christiansen abstained from the discussion and the vote. The motion was approved by a vote of 4-0.

E. DNR Update

Elaine Douskey handed out copies of an article regarding Illinois men who were “charged with \$4M convenience store fraud,” acting under several different company names and obtaining loans from the Small Business Administration. Ms. Douskey explained that the article highlighted one of many obstacles faced by the DNR in its attempt to move work forward at sites. She noted that the newly created DNR attorney position would prove valuable to the UST/LUST Section to track down site owners who were difficult to find.

Next, she stated that many DNR staff attended the National Tanks Conference in Atlanta a week prior. She explained that one DNR staff member moderated a session on renewable fuels and another presented on LUST issues regarding water supply wells highlighting the project in Climbing Hill. She noted there were several sessions at the conference regarding owner/operator training, and the program was to be in place by 2009.

Also, Ms. Douskey explained that the DNR had begun discussions on how to implement rule changes for UST installer and remover certification criteria. And very preliminary discussions about the owner/operator training program had begun, as well. She reported that 2,700 sites were inspected by third party inspectors in 2007. She stated that DNR had compiled information from those inspections, and they were finding issues across the state. She stated the DNR would focus staff efforts on follow up on sites with compliance issues, possible releases, and failure to complete timely inspections. And she noted that DNR was in the process of contracting with a provider of a training course for third party compliance inspectors, and she hoped the course would be available by June 2008.

Regarding the LUST Section, Ms. Douskey reviewed with the Board the DNR position on the RBCA rule change that was pending before the ARC. She referenced a handout from the February meeting that explained DNR’s reasons for pieces within the rule they had proposed. She encouraged Board members to peruse it and ask questions about it if necessary. In light of the significant technical discussion at the February meeting, Ms. Douskey supplied copies of an outline of DNR goals for amending Chapter 135 of the Iowa Administrative Code. She explained that the meetings going forward would involve a smaller, core group of stakeholders to work out the issues with regard to the RBCA rule to take a rule based on consensus to the ARC in May. Ms. Douskey requested the Board members let her know if they would like DNR staff to explain (by presentation or otherwise) their position on the rule in more detail.

Lastly, she reported 805 corrective action meetings on high risk sites were held since the inception of the meetings in July 2004, resulting in 409 memoranda of agreement. And she reported 51 sites had been closed during Federal fiscal year 2008 to date.

PROGRAM BILLINGS

Mr. Scheidel presented the current monthly billings to the Board for approval.

1. Aon Risk Services.....\$122,726.00
Consulting Services – April 2008 (\$57,513.00)
Claims Processing Services – April 2008 (\$55,213.00)
2. Attorney General’s Office.....\$8,819.10
Services provided for February 2008
3. Nancy Lincoln.....\$112.32
Mileage reimbursement for travel from Glenwood to Des Moines
For February 29, 2008 Board meeting
4. Iowa Department of Administrative Services.....\$78.41
State Accounting Enterprise; 1099 postage charges for Iowa UST Fund

No additional billings for outside cost recovery counsel were presented by the Attorney General’s office for this meeting. On a motion by Ms. Christiansen and a second by Ms. Johnson, the billings were approved by a vote of 5-0.

MONTHLY ACTIVITY REPORT

Mr. Scheidel carried in reports showing the Board projections of Fund balances with and without the defeasance of bonds as may be required by legislation. Also, he noted that the February activity report and the January and February financial reports were in the Board packets for the Board members to review.

ATTORNEY GENERAL’S REPORT

Mr. Steward stated he had nothing to report to the Board at this time.

CLAIM AUTHORITY

Mr. Gastineau presented the following claim authority requests:

1. Site Registration 8600268 – Bluff View Café, Pacific Junction

This site was high risk for the groundwater and soil leaching to groundwater ingestion pathway for a number of private drinking water wells, and also high risk for the groundwater, soil leaching, and soil vapor pathways for several residential sewers. The site was low risk for the groundwater ingestion to protected groundwater pathway, and high risk for the soil leaching to protected groundwater pathway. Free product was also present at the site. The eligible LUST contamination was co-mingled with non-eligible contamination from on-site aboveground storage tanks (AST’s). There was not yet a plan for corrective action at the site other than free

product recovery by hand bailing. Previous authority to \$75,000 had been granted, and \$89,148.84 was incurred to date. Additional authority to \$240,000 was requested for a site monitoring report (SMR), corrective action design report (CADR), implementation of the CADR, and free product recovery (FPR). Based on questions from Mr. Beech, Steve Reinders of GAB Robins responded that this site had fairly significant free product, and that hand-bailing had been ongoing for a good while.

A motion to approve the claim authority was submitted by Ms. Christiansen and seconded by Ms. Lincoln. Approved 5-0.

2. Site Registration 8600610 – Casey’s General Store, Forest City

This site was classified high risk for the groundwater and soil vapor for residential sewers and basements. Soil gas sampling failed at three locations around the former underground storage tank (UST) basin located approximately 25 ft from a house with a basement. In a teleconference it was decided that the former UST basin should be excavated and a soil vapor extraction/air sparge (SVE/AS) system be installed in the backfill. Expected operation and maintenance was 3-5 years. Previous authority to \$75,000 had been granted, and \$77,028.70 was incurred to date. Additional authority to \$250,000 was requested for a site monitoring report (SMR), corrective action design report (CADR), and implementation of the excavation and system installation.

Ms. Johnson submitted a motion to approve the claim authority, and Ms. Christiansen seconded the motion. Approved 4-0. Mr. Beech abstained from the discussion and the vote.

3. Site Registration 8605366 – Sigourney Oil Inc., Ollie

This site was classified high risk for the groundwater ingestion to drinking water well pathway and groundwater to plastic water line pathway. High risk monitoring would be an accepted approach at this site, and site specific target levels (SSTL’s) may be reached after several more years of monitoring. There was a chance that additional corrective action might be required. Previous authority to \$75,000 had been granted, and \$90,672.16 was incurred to date. Additional authority to \$125,000 was requested for a SMR.

Ms. Christiansen submitted a motion to approve the claim authority, and Ms. Johnson seconded the motion, which was approved 5-0.

4. Site Registration 8601874 – Associated Milk Producers, Inc., Sanborn

This was the third Board report for a site that was classified high risk for the groundwater to plastic water line pathway, soil leaching to groundwater to plastic water line pathway, and soil leaching to groundwater vapor to enclosed space pathway for residential sewers and basements. Soil excavation was recommended. Previous authority to \$278,000 had been granted, and \$187,603.75 was incurred to date. Additional authority to \$325,000 was requested for a SMR and an excavation.

Mr. Beech submitted a motion to approve the claim authority, and Ms. Christiansen seconded the motion, which was approved 5-0.

5. Site Registration 8601923 – Total Petroleum, Marion

This site was classified high risk for the soil leaching to groundwater vapor and soil vapor pathways for residential basements and sewers. Soil gas sampling had failed at three locations, and it was expected that a fairly large excavation would be necessary. Previous authority to \$75,000 had been granted, and \$78,268.67 was incurred to date. Additional authority to \$290,000 was requested for a SMR and an excavation.

Ms. Christiansen submitted a motion to approve the claim authority, and Ms. Johnson seconded the motion, which was approved 5-0.

CONTRACTS ENTERED INTO SINCE THE FEBRUARY 29, 2008 BOARD MEETING

Mr. Scheidel noted that the Board had not entered into any agreements or contracts since the last Board meeting.

OTHER ISSUES

Mr. Scheidel noted that the next Board meeting was scheduled for Friday, April 25th at 10 A.M. He also stated that the US Environmental Protection Agency (USEPA) Region VII meeting was scheduled for April 24th & 25th in Kansas City. He explained that he had contacted the USEPA about the scheduling conflict with their meeting dates, as another state had conflicts also; however the USEPA planned to keep their meeting dates as scheduled.

CORRESPONDENCE AND ATTACHMENTS

Mr. Larson asked if there was any further business, and there being none, Ms. Christiansen moved to adjourn, and Mr. Beech seconded the motion. By a vote of 5-0, the Board adjourned at 10:51 A.M.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Scott M. Scheidel". The signature is stylized with a large, looped 'S' and a cursive 'M'.

Scott M. Scheidel
Administrator